

**MINUTES**  
**HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR**  
**Room B-8 - Civic Center**  
**2000 Main Street**  
**Huntington Beach California**

**WEDNESDAY, SEPTEMBER 5, 2007 - 1:30 P.M.**

**ZONING ADMINISTRATOR:** Mary Beth Broeren

**STAFF MEMBER:** Andrew Gonzales, Ron Santos, Pamela Avila (recording secretary)

**MINUTES:** August 1, 2007  
August 15, 2007  
**APPROVED AS SUBMITTED**

**ORAL COMMUNICATION:** **NONE**

**ITEM 1: CONDITIONAL USE PERMIT NO. 2007-025 (BACCARI & O'DOHERTY WALL AND POOL )**

**APPLICANT/** John Baccari & Jim O'Doherty, 602 22<sup>nd</sup> Street, Huntington Beach,  
**PROPERTY OWNER:** CA 92648  
**REQUEST:** To permit the construction of a 5 ft. high block wall along the front property line in lieu of the maximum allowed wall height of 3 ft.-6 in. In addition, the request includes a determination by the Zoning Administrator to consider a pool and spa as landscaping and permit the construction of the pool and spa within the minimum 12 ft. front yard setback. The Planning Department has determined that a pool and spa are considered accessory structures and must be constructed at a minimum 12 ft. front yard setback.  
**LOCATION:** 602 22<sup>nd</sup> Street, 92648 (northeast corner of 22<sup>nd</sup> Street and Acacia Avenue)  
**PROJECT PLANNER:** Andrew Gonzales

Andrew Gonzales, Staff Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing use of the requested project. Staff presented an overview of the proposed project and basis for recommending denial.

Staff summarized the following concerns:

- The project is not compatible with the surrounding structures.
- The properties that are developed in the subject area have pilasters, tiered landscape planters, and lower walls.
- The project is inconsistent with the Urban Design Guidelines.
- The project may obstruct visibility at the street intersection.

- A pool and spa are considered as accessory structures and accessory structures shall not occupy the required front yard area.

Staff began discussing the background of the request and explained that the Code Enforcement Division issued a citation in April of this year for the construction of a wall without city permits.

Staff received six letters of support from surrounding neighbors stating that the proposal is an appropriate improvement to the site and the wall enhances the neighborhood.

The applicant has submitted a traffic analysis prepared by a certified traffic engineer, Bill Zimmerman, validating that the wall will not hamper visibility for traffic at the street intersection. Bob Stachelski, City of Huntington Beach Transportation Manager, reviewed the plans and indicated that the project does not impact traffic safety.

Staff recommended denial of the request based upon the suggested findings as presented in the executive summary.

Mary Beth Broeren, Zoning Administrator, stated that she had reviewed all of the correspondence regarding this permit. She has also visited the property, and reviewed the traffic analysis.

Staff stated that applicant has stated his willingness to change the wall's design by moving it back up to 12 inches from the property line.

#### **THE PUBLIC HEARING WAS OPENED.**

Mr. Jim O'Doherty, co-applicant, stated that all the walls within his neighborhood were built prior to the current code. The applicant stated that his wall is only six inches higher than his neighbors'. The applicant stated that it has been a long process to get his proposal to the Zoning Administrator for a decision. He discussed changes with Planning Staff.

The applicant stated that the average height of walls in the applicant's neighborhood is 59 ½ inches tall. He stated that neighbors on Goldenwest Street have eight feet high walls. Applicant spoke of hodgepodge nature of his neighborhood and no uniformity in the height of walls.

Mr. Larry Elfenbein, 526 22<sup>nd</sup> Street, spoke in support of the wall and wrote a letter in support of the proposal. He stated that the wall doesn't inhibit traffic and the applicants came around to neighbors to garner support for their project.

Mr. Robert Angus, 604 22<sup>nd</sup> Street, spoke in support of applicants' efforts to improve their property.

Ms. Cindy Surridge, 511 22<sup>nd</sup> Street, spoke in support and stated that she had already written a letter to the City supporting her neighbors' renovations.

Ms. Marlene Goodrich, 622 22<sup>nd</sup> Street, spoke in support of her neighbors' renovations.

Chris Evans, 528 22<sup>nd</sup> Street, spoke in support and agreed with other neighbors. He stated that the applicants sought out the neighborhood's support.

Lisa Pompa, 508 22<sup>nd</sup> Street, stated that she and her husband were supportive along with other neighbors of the proposed project.

Doug Richards, 616 22<sup>nd</sup> Street, stated his support in a letter and also stated that there were no safety concerns with the wall.

Cathy Keller, 512 22<sup>nd</sup> Street, stated her full support along with her husband.

Debbie Jankaich, 501 21<sup>st</sup> Street, spoke in support of the applicant's proposal. She stated that noise levels are usually louder at street intersections.

Bill Zimmerman, 607 21<sup>st</sup> Street, stated that the wall is not a safety issue for the neighborhood.

John Baccari, co-applicant, stated his gratitude for the support of all their neighbors. Mr. Baccari mentioned his 25 years of experience with the Los Angeles City Fire Department and three and a half years with Code Enforcement. He stated that code enforcement is to be done in an unbiased and uniform way. In his opinion, the city of Huntington Beach doesn't uniformly enforce the code. Walls are built without permits. He requested that the City enforce its code.

Mr. O'Doherty further emphasized his rights by the Constitution and the 5<sup>th</sup> Amendment.

**THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.**

Ms. Broeren stated that she had some questions for staff. Ms. Broeren asked Mr. Stachelski, City Transportation Manager, if he thought the traffic analysis was accurate and adequate. Mr. Stachelski concurred on both accounts.

Ms. Broeren inquired about the height of a block wall located at 502 22<sup>nd</sup> Street. Staff stated that it was built at 55 inches to match the height of an existing wall. Staff also stated the wall was built prior to adoption of the current code requirement of 42" maximum height.

Ms. Broeren asked if staff had examples in the immediate vicinity where conditional use permits have been granted for similar corner lots.

Staff stated that residential outdoor walls being built typically have half open work with two feet on the top and closed on the bottom. This is the standard for Huntington Beach residential lots.

Ms. Boeren discussed the types of residential lots available in Huntington Beach and the limitations imposed.

Ms. Boeren stated the city's rationale for creating new development standards in 1998 was the result of the proliferation of residents building walls on the property line.

Ms. Boeren stated that a conditional use permit allows the city to determine that a wall is compatible with the community. She stated that this wall does not embody the overall goals of

the city. Ms. Broeren asked the applicant how he could change the wall to make it more compatible with the City's guidelines.

Mr. O'Doherty stated he would make changes in accordance with the City's guidelines.

Ms. Broeren stated that the wall could be enhanced with different materials. Ms. Broeren asked staff if there would be any other conditions of approval staff may recommend regarding the wall design. Staff stated that a condition could be imposed to soften the appearance of the wall.

Ms. Broeren discussed continuing the item for redesign by the applicant or approval with conditions. The applicant stated his preference was to render a decision now. Ms. Broeren requested the tape recorder be turned off at 2:35 p.m. as she drafted new findings for this decision.

At 2:40, the hearing resumed.

Applicant stated he was prepared to put in a new gate and two pilasters if the spa is approved.

Ms. Broeren questioned staff regarding plantings on private property that have gone over the wall. Mr. Gonzales stated that he did not recall it being part of findings and Mr. Santos stated he did not recall either.

Applicant stated he doesn't have a design without a pool at the current time. Applicant stated that whatever he would put together would be beautiful for the neighborhood.

Staff wanted a statement that the Zoning Administrator concurs with staff's interpretation on the pool and spa. Ms. Broeren indicated her concurrence with staff, and stated that no information had been presented that would provide for a different interpretation of the code.

**CONDITIONAL USE PERMIT NO. 2007-025 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND CONDITIONS OF APPROVAL. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR CAN BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.**

**FINDINGS FOR PROJECTS EXEMPT FROM CEQA:**

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15303 of the CEQA Guidelines, because the project consists of construction of a new fence on a property developed with a single-family home.

**FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2007-025 :**

1. Conditional Use Permit No. 2007-025 for construction of a 5 ft. high block wall along the front property line in lieu of the maximum allowed wall height of 3 ft. 6 in. will not be detrimental to the general welfare of persons working or residing in the vicinity and detrimental to the value of property and improvements in the neighborhood. Although the

wall exceeds the maximum allowed height within the triangle of visibility at street intersections, a traffic study shows that pedestrian and motorist visibility will not be affected and therefore there is no safety/traffic hazard. The height of the wall will exceed that of other walls in the vicinity; however, as conditioned to require a minimum 6 in. wide planter or landscaping material to obscure the wall and decorative pilasters to soften the walls appearance, the visual character of the neighborhood will not be negatively impacted.

2. The conditional use permit will be compatible with surrounding structures because, as conditioned, landscaping will be provided in front of the wall and decorative pilasters will be provided at the gate. The neighborhood is predominantly developed with front yard walls consisting of tiered landscaped planters, variable heights, changes in plane, and pilasters. The addition of the landscape planter or landscaping and the pilasters will make the wall more consistent with the surrounding area.
3. The proposed conditional use permit will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance, which allows walls within front yard areas to exceed the maximum height of 3 ft. 6 in. pursuant to a conditional use permit.
4. The granting of the conditional use permit will not adversely affect the General Plan and is consistent with the following General Plan policy:

LU 9.2: Provide for the preservation of existing residential neighborhoods.

LU16.1.1: Accommodate development of the City's neighborhoods, boulevards, and districts according to the Community Districts and Subarea Schedules, which requires (Subarea 3B) front yard setbacks to maintain the existing residential neighborhood character.

UD 1.1.1: Coordinate streetscape and landscape design in all residential neighborhoods to strengthen their identities.

The proposed wall as conditioned will be consistent with existing walls in the immediate area in relation to landscaping and design. Other properties with similar wall configurations in the front yard area provide landscaping along the front property line to soften up the streetscape.

#### **CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2007-025:**

1. The site plan and elevations received and dated July 5, 2007 shall be the conceptually approved design with the following modifications:
  - a. A minimum 6 in. wide landscape planter shall be provided along 22<sup>nd</sup> Street consistent with the elevation dated September 5, 2007, or landscaping material shall be planted on the private property and groomed to overhang the wall to provide greening or landscaping for public view.
  - b. Decorative pilasters shall be constructed on either side of the relocated gate.

**INDEMNIFICATION AND HOLD HARMLESS CONDITION:**

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

**THE MEETING WAS ADJOURNED AT 3:00 PM BY THE ZONING ADMINISTRATOR TO THE NEXT REGULARLY SCHEDULED MEETING OF THE ZONING ADMINISTRATOR ON WEDNESDAY, SEPTEMBER 12, 2007 AT 1:30 PM.**

A handwritten signature in black ink, appearing to read "Mary Beth Broeren", written over a horizontal line.

Mary Beth Broeren  
Zoning Administrator

:pa